

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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**WILLIAM BRANDON CUMMINGS**

**Plaintiff,**

**v.**

**SGT. SMITH, *et al.***

**Defendants.**

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**CIVIL ACTION NO. 09-0335**

**ORDER**

**AND NOW**, this 25th day of September 2013, upon consideration of the Motion to Dismiss of Defendant, Sgt. Robert Smith [Doc. No. 39], and the opposition thereto, and for the reasons stated in the accompanying Memorandum Opinion, it is hereby **ORDERED** that:

1. The Motion is **GRANTED in part and DENIED in part**.
2. The Motion is **GRANTED** as to the claims relating to the destruction or removal of legal papers and the spraying of mace into a nearby cell, which are **DISMISSED WITH PREJUDICE**.
3. The Motion is **DENIED** as to the claimed denial of medical treatment or decontamination after Plaintiff was exposed to the mace.
4. The case shall remain **CLOSED** until Defendant files an answer to the Amended Complaint, which shall be done within 21 days. Upon the filing of the answer the Clerk shall **RE-OPEN** the case and the Court will enter a scheduling order.

It is so **ORDERED**.

**BY THE COURT:**

**/s/ Cynthia M. Rufe**

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**CYNTHIA M. RUFÉ, J.**